

2:12CV1575

SEALED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

2012 NOV 21 A 9:09

DISTRICT COURT
DISTRICT OF NEVADA

DEPUTY

IN THE MATTER OF)
ADMINISTRATIVE SUBPOENAS TO)
BANK OF THE WEST AND WHITE)
STATE BANK)

Case No. 2:12-cv-015750MMD-PAL

UNITED STATES SECURITIES AND)
EXCHANGE COMMISSION)
100 F STREET, N.E.)
WASHINGTON, D.C. 20549)

IN CAMERA APPLICATION
OF THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION
FOR AN EX PARTE ORDER SEALING RECORDS PURSUANT TO SECTION 21(h)(5)
OF THE SECURITIES EXCHANGE ACT OF 1934

(FILED UNDER SEAL)

The United States Securities and Exchange Commission (the "Commission") respectfully moves *in camera*, pursuant to Section 21(h)(5) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §78u(h)(5)], for an *ex parte* order extending the seal of all records related to or concerning this matter for an additional ninety-day period, or until further order of this Court, except for the Clerk's issue of copies of an Order in this matter to the Commission for its use and for service, on the ground that this matter involves an Application by the Commission for an *Ex Parte* Order Pursuant to Sections 21(h)(2) and 21(h)(4) of the Exchange Act [15 U.S.C. §§78u(h)(2) and 78u(h)(4)].

In accordance with Rule 5.2 of the Federal Rules of Civil Procedure the Commission will provide the Court with a redacted set of documents filed under seal for inclusion in the record prior to the removal of the seal.

Dated: November 19, 2012

Respectfully submitted,

By: 

Kenneth J. Guido

Attorney for Applicant

U.S. Securities and Exchange Commission

100 F Street, N.E.

Washington, D.C. 20549

Phone: (202) 551-4480 (Guido)

Facsimile: (202) 772-9286

guidok@sec.gov

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

IN THE MATTER OF)
ADMINISTRATIVE SUBPOENAS TO)
BANK OF THE WEST AND WHITE)
STATE BANK)
UNITED STATES SECURITIES AND)
EXCHANGE COMMISSION)
100 F STREET, N.E.)
WASHINGTON, D.C. 20549)

Case No. 2:12-cv-015750MMD-PAL

**MEMORANDUM OF LAW IN SUPPORT OF IN CAMERA APPLICATION OF
THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION
FOR AN EX PARTE ORDER EXTENDING THE SEALING OF RECORDS PURSUANT
TO SECTION 21(h)(5) OF THE SECURITIES EXCHANGE ACT OF 1934**

(FILED UNDER SEAL)

The United States Securities and Exchange Commission (the "Commission") submits this memorandum of law in support of its *in camera* Application for an *ex parte* order extending the sealing of all records in this matter, pursuant to Section 21(h)(5) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78u(h)(5)], (the "Application"). The Court previously sealed all records in this matter by Order dated September 6, 2012. The requested order would extend the sealing of all records related to or concerning this matter for a further ninety-day period, or as ordered by the Court, except for the Clerk's issuance of copies of Orders in this matter to the Commission for its use and service. The grounds for this request is that this matter involves an Application by the Commission for an *Ex Parte* Order pursuant to Sections 21(h)(2) and 21(h)(4) of the Exchange Act [15 U.S.C. §§78u(h)(2) and 78u(h)(4)]. This Motion arises out of a nonpublic, formal investigation that is being carried on from the Commission's Washington, D.C. offices

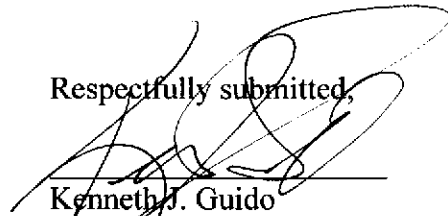
Under Section 21(h)(5) of the Exchange Act [15 U.S.C. §78u(h)(5)], upon Application by the Commission, “all proceedings pursuant to [Sections 21(h)(2) and Section 21(h)(4) of the Exchange Act] shall be held *in camera* and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate may permit.” This proceeding, as described in our Application and accompanying memorandum of law for an *ex parte* order pursuant to Section 21(h)(4) of the Exchange Act, is a proceeding pursuant to Section 21(h)(2) and Section 21(h)(4).

Thus, Section 21(h)(5) requires that any such proceeding be held *in camera* and the records related to or concerning this matter be sealed “until the expiration of the period of delay or such other date as the presiding judge or magistrate may permit.” In this instance, consistent with Section 21(h)(4), we request that the records related to or concerning this matter be sealed for an additional ninety (90) days or until further order of this court.

In accordance with Rule 5.2 of the Federal Rules of Civil Procedure, the Commission will provide the Court with a redacted set of documents filed under seal for inclusion in the record prior to the removal of the seal.

Dated: November 19, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kenneth J. Guido', is written over a horizontal line.

Kenneth J. Guido
Attorney for Applicant
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
Phone: (202) 551-4480 (Guido)
Facsimile: (202) 772-9286
guidok@sec.gov

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

IN THE MATTER OF)
ADMINISTRATIVE SUBPOENAS TO)
BANK OF THE WEST AND WHITE)
STATE BANK)
UNITED STATES SECURITIES AND)
EXCHANGE COMMISSION)
100 F STREET, N.E.)
WASHINGTON, D.C. 20549)

Case No. 2:12-cv-015750MMD-PAL

**PROPOSED ORDER EXTENDING ORDER SEALING RECORDS RELATED TO
THIS MATTER**

(FILED UNDER SEAL)

Upon consideration of the Motion of the United States Securities and Exchange Commission (the "Commission") for an order pursuant to Section 21(h)(5) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §78u(h)(5)], it appearing to the Court that this matter involves an Application by the Commission permitting it to extend the delay of customer notice of certain previously issued bank subpoenas and to delay customer notice of an additional subpoena pursuant to Section 21(h)(4) of the Exchange Act [15 U.S.C. §78u(h)(4)],

IT IS HEREBY ORDERED that all records related to this matter shall be sealed for an additional ninety day period, or until further order of this Court, except for the Clerk's issue of copies of Orders in this matter to the Commission for its use and for service.

Dated: November 23, 2012



UNITED STATES DISTRICT JUDGE